

Message Text

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USMISSION USBERLIN
AMEMBASSY BRUSSELS
AMEMBASSY LUXEMBOURG
AMEMBASSY THE HAGUE
AMEMBASSY PARIS
AMEMBASSY DUBLIN
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TION LAW

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SUMMARY: FRG UNIONS ARE STUDYING EMPLOYER EFFORTS TO
EVADE OR MINIMIZE EFFECTS OF 1976 CODETERMINATION LAW.
SUCH EFFORTS COULD IMPACT ON THE LABOR-MANAGEMENT CLI-
MATE IN THE FRG LATER THIS YEAR. END SUMMARY.

1. DGB (GERMAN TRADE UNION FEDERATION)
SOURCES HAVE PROVIDED EMBASSY LABOFF WITH A PRELIMINARY

PAPER ENTITLED "MITBESTIMMUNGSFLUCHT" (FLIGHT FROM CODETERMINATION). THE PAPER MAKES IT CLEAR THAT THE UNIONS ARE GOING TO PURSUE FURTHER STUDIES ON FIRMS WHICH TRY TO EVADE THE LETTER AND/OR THE SPIRIT OF THE LAW WHICH IS DUE TO COME INTO FORCE BY THE END OF JUNE. THESE STUDIES, WHICH ARE LIKELY TO APPEAR IN THE FALL, AND THE UNIONS' CONTINUED DISPLEASURE AT THE EMPLOYERS' CONSTITUTIONAL CASE AGAINST CODETERMINATION (REFTELS) COULD LEAD TO INCREASED LABOR STRIFE IN LATE 1978.

2. MOST OF THE PAPER'S OBSERVATIONS ARE PRELIMINARY AND IN LARGE PART BASED ON MAGAZINE AND NEWSPAPER ARTICLES THAT HAVE ALREADY APPEARED. THE MAJOR FORMS OF FLIGHT FROM CODETERMINATION INCLUDE:

- DIVISION OF FIRMS INTO UNITS OF UNDER 2,000 EMPLOYEES (WIENERWALD, DUERRKOPP-WERKE).
- FORMING FOREIGN HOLDING COMPANIES AND MAKING GERMAN FIRMS SUBSIDIARIES OF THESE FIRMS. SWITZERLAND, THE NETHERLANDS AND LUXEMBOURG ARE THE PREFERRED NATIONS. THE ACTUAL NUMBER OF FIRMS USING THIS IS SMALL AND IS NOT LIKELY TO BECOME A MAJOR MOVEMENT.
- CHANGES IN THE FORMS OF INCORPORATION SO THAT A LESSER FORM OF CODETERMINATION OR NO CODETERMINATION AT ALL APPLIES (THE FLICK GROUP, MICHELIN, HENKEL AND CIE).

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- CHANGES IN COMPANY BY LAWS THAT LIMIT THE SCOPE OF DECISIONS THAT MAY BE MADE BY THE ADVISORY BOARD AND BROADENING MANAGEMENT RESPONSIBILITY.
- THE CONSTITUTIONAL CASE ITSELF.

3. EMPLOYER SOURCES NOTE THAT FEW MAJOR GERMAN FIRMS HAVE ATTEMPTED TO EVADE THE LAW BY USING A FOREIGN HOLDING COMPANY. CHANGES IN COMPANY BY LAWS SEEMS TO BE THE MOST POPULAR OPTION THESE DAYS.

4. EMBASSY COMMENT: THE OUTCOME OF THE EMPLOYERS' CONSTITUTIONAL CASE AGAINST THE CODETERMINATION LAW, AND ATTEMPTS TO EVADE THE LAW WILL HAVE AN INFLUENCE ON MANAGEMENT-LABOR RELATIONS THIS FALL AND INTO 1979. UNION SOURCES DO NOT BELIEVE THAT THE COURT WILL DECLARE THE LAW UNCONSTITUTIONAL, BUT THEY FEAR THAT THE COURT'S REASONING MAY RESTRICT FUTURE EFFORTS TO EXTEND THE LAW TO THE UNION'S LONG STATED GOAL OF FULL PARITY CODETERMINATION.

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